



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	ATTY'S DKT: KIMCHI2A
KIMCHI et al.	)	
	)	
Appln. No.: 09/719,748	)	Conf. No. 1652
	)	
Filed: 27 February 2001	)	Washington, D.C.
	)	
For: DAP-KINASE RELATED PROTEIN)	)	March 12, 2004
	)	Attn: PETITIONS

**PETITION TO VACATE HOLDING OF ABANDONMENT<sup>1</sup>**

U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window, Mail Stop  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, Virginia 22202

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed March 1, 2004, which erroneously states that the application is abandoned because of applicant's failure to file a reply within the time period established by the Office Action mailed June 2, 2003.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

THE FACTS

Applicant timely and properly responded within the time period established by the Office Action dated June 2,

<sup>1</sup> If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

WFE

March 12, 2004

2003, by timely filing a Reply on October 2, 2003, along with a petition for one month's extension of time.

As evidence that such Reply was timely and properly filed on October 2, 2003, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on October 2, 2003.

As it appears that the Reply filed on October 2, 2003, has been lost by and in the PTO, attached hereto is a duplicate copy thereof (entitled "Amendment") dated October 2, 2003, and related papers. However, as the one month's extension fee has already been paid, this executed copy is not to be taken as authorization to charge said extension of time fee. No further fees are required at this time.

REMARKS

In view of the above evidence, it is clear that a Reply was timely and properly filed within the time period established by the Office Action mailed on June 2, 2003, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

In re Appln. No. 09/719,748

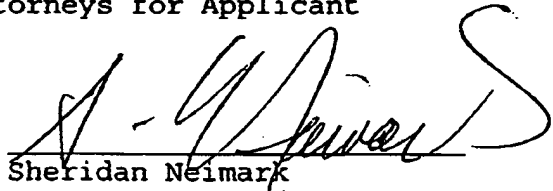
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It accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

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APPLICATION/PATENT NO: 09/719,748  
DOCKET NO: KIMCHI-2A

THE PATENT AND TRADEMARK OFFICE STAMP  
HEREON ACKNOWLEDGES RECEIPT OF THE  
FOLLOWING PAPERS:

☒ FEES \$ 55.00

☒ PTO FORM 2038 ☐ (CH. # \_\_\_\_\_)

☒ EXTENSION OF TIME ( 9 MONTHS)

☒ TRANSMITTAL LETTER

☐ MISSING PARTS RESPONSE WITH DECL

☒ ~~AMENDMENT~~ RESPONSE (circle one)

☐ PRELIMINARY ☐ SUPPLEMENTAL

☐ APPLICATION DATA SHEET

☐ RESTRICTION/ELECTION REPLY

☐ SEQUENCE LISTING ☐ WITH DISK

☐ RCE / CPA TRANSMITTAL (circle one)

☐ NOTICE OF APPEAL

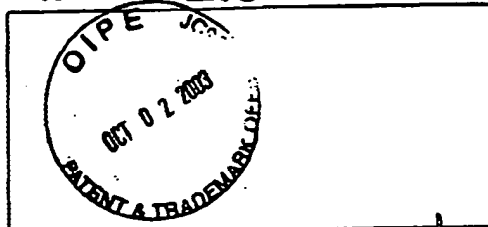
☐ APPEAL BRIEF (TRIPPLICATE)

☐ REPLY BRIEF (TRIPPLICATE)

☐ OTHER \_\_\_\_\_

CONF. NO.: 4171

CLIENT CODE: YEDA



☐ ASSIGNMENT

☐ INFORMATION DISCLOSURE STATEMENT

☐ FORM SB08A & \_\_\_\_\_ PATENTS/PUBS

☐ PRIORITY DOCUMENT(S) NO. \_\_\_\_\_

☐ DECLARATION UNDER § \_\_\_\_\_

☐ LETTER TO DRAFTSMAN

☐ \_\_\_\_\_ SHEETS OF DRAWINGS

☐ ISSUE FEE TRANSMITTAL FORM

☐ MAINTENANCE FEE LETTER